

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL NO. 3:06CV168-H

UNITED STATES OF AMERICA

vs.

REAL PROPERTY LOCATED AT 3648
POPLIN ROAD, MONROE, NORTH
CAROLINA

CONSENT ORDER
FOR DISMISSAL

WHEREAS, the United States filed a verified complaint on April 7, 2006, for the forfeiture of the defendant property, and this Court found probable cause for such forfeiture and issued a warrant for arrest in rem; and,

WHEREAS, on or about April 12, 2006, the Marshals Service duly executed the warrant for arrest in rem as to the defendant property, as shown by the Form USM-285 submitted herewith; and,

WHEREAS, on or about June 21, 2006, Rose Black filed a pro se answer and claim asserting an ownership interest in the defendant property; and,

WHEREAS, Dennis Black, through counsel, filed a verified claim on or about June 23, 2006, and an answer on or about July 10, 2006; and,

WHEREAS, for purposes of this consent order only, the parties agree that the pleadings filed by claimants shall be deemed to constitute a verified claim (or statement of interest) and an answer duly filed under 18 U.S.C. §983(a)(4) and Rule C(6)(A) and (to the extent applicable) Rule G(5) of the Supplemental Rules for Certain Admiralty and Maritime Claims, and,

WHEREAS, the parties stipulate that there is probable cause for forfeiture of the defendant property and that the United States District Court for the Western District of North Carolina has jurisdiction hereof; and,

WHEREAS, the parties have agreed as follows: (1) the complaint herein shall be dismissed, without prejudice; and (2) each party shall bear its own costs, including attorneys fees; and,

WHEREAS, the parties consent to the United States Magistrate Judge conducting all proceedings, including entry of this Consent Judgment, pursuant to 28 U.S.C. §636(c);

THE COURT FINDS THAT:

1. A verified complaint for forfeiture in rem of the defendant property was filed on April 7, 2006. This Court found probable cause for forfeiture and issued a warrant for arrest in rem.
2. Process was fully issued and returned in this action.
3. The parties have agreed to dismissal of the complaint, as provided above.
4. The actions taken by the United States were reasonable and proper.

Based on the foregoing findings, IT IS ORDERED, ADJUDGED, AND DECREED that:

1. The complaint is hereby dismissed, without prejudice; and,
2. Each party shall bear its own costs of this action, including attorneys fees.

Signed this the 26th day of March, 2007.

Carl Horn, III
UNITED STATES MAGISTRATE JUDGE

ON MOTION OF AND WITH CONSENT OF THE PARTIES:

FOR THE UNITED STATES OF AMERICA:

GRETCHEN C. F. SHAPPERT
United States Attorney

By William A. Brafford
WILLIAM A. BRAFFORD
Assistant United States Attorney

Date: March 23, 2007

Rose B Black
ROSE BLACK


Date: 3/20/07

Dennis Black
DENNIS BLACK

Date: 3-10-07

Joe Ledford
JOE LEDFORD
Attorney for Dennis Black

Date: 3-10-07



EBEN RAWLS
Attorney for Rose Black

Date: 13 March 2007

U.S. Department of Justice
United States Marshals Service

RECEIVED USMS
CHARLOTTE NC

PROCESS RECEIPT AND RETURN

See "Instructions for Service of Process by U.S. Marshal"

PLAINTIFF United States of America	COURT CASE NUMBER 3:06CV168-H
DEFENDANT RP Located @ 3648 Poplin Rd., Monroe, NC (Black, D)	TYPE OF PROCESS Cmpst for Forfeiture/Wrrt for Arrest

SERVE AT { NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN
ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW

William A. Brafford
U.S. Attorney's Office
227 W. Trade St., Ste. 1650, Carillon Building
Charlotte, NC 28202

Number of process to be served with this Form 285

Number of parties to be served in this case

Check for service on U.S.A.

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold

Fold

DEA Agency Case# KF-05-0091

Signature of Attorney other Originator requesting service on behalf of: <i>William A. Brafford</i>	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER 704-344-6222	DATE 04/11/06
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only for USM 285 if more than one USM 285 is submitted)	Total Process 1	District of Origin No. 58	District to Serve No. 58	Signature of Authorized USMS Deputy or Clerk <i>Yvette B. [Signature]</i>	Date 4/12/06
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I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

☐ A person of suitable age and discretion then residing in defendant's usual place of abode

Address (complete only different than shown above)

Date Time ☐ am ☐ pm

Signature of U.S. Marshal or Deputy

Service Fee	Total Mileage Charges including endeavors	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*)
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REMARKS: 4/12/06: failed to Kathleen to put into JDIS
4/28/06 entered into JDIS

PRIOR EDITIONS
MAY BE USED

PRINT COPIES

1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

FORM USM-285
Rev. 12/15/80
Automated 01/00